

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

CORY M. ROWE,

Petitioner,

: Case No. 3:20-cv-094

- vs -

District Judge Walter H. Rice
Magistrate Judge Michael R. Merz

STATE OF OHIO,

:

Respondent.

REPORT AND RECOMMENDATIONS

Petitioner Cory M. Rowe brought Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241. Petitioner claims that, although he is in federal custody on a sentence from this Court, he is subject to a detainer from the Darke County Sheriff regarding a charge of sexual misconduct involving his daughter and the Darke County Court of Common Pleas refuses, despite demand, to bring him to trial.

Rowe attached no paperwork showing any such detainer and the Magistrate Judge was unable to locate any such case through the Clerk of Courts for Darke County. Accordingly the Magistrate Judge issued an order for Rowe to supplement the Petition with documents evidencing the facts he claimed (ECF No. 2). Rowe was given a deadline of March 27, 2020, to file the supplement. None has been filed. Instead, the Order has been returned by the Postal Service marked “undeliverable” because Rowe is not at the United States Penitentiary in Pollock, Louisiana, which is the address he gave upon filing.

Under these circumstances, the Magistrate Judge recommends the Petition be dismissed without prejudice for lack of prosecution. The Court cannot adjudicate the case without the requested information and Petitioner has not provided the Court with a current address.

Because reasonable jurists would not disagree with this conclusion, it is also recommended that Petitioner be denied a certificate of appealability and that the Court certify to the Sixth Circuit that any appeal would be objectively frivolous and should not be permitted to proceed *in forma pauperis*.

April 10, 2020.

s/ *Michael R. Merz*
United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Because this document is being served by mail, three days are added under Fed.R.Civ.P. 6. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. A party may respond to another party's objections within fourteen days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal.

Rowe avers that he is currently confined in the United States Penitentiary in Pollock, Louisiana, pursuant to a sentence of this Court in March 2013 (Petition, ECF No. 1, PageID 1).

Review of this Court's docket shows that Rowe was a Defendant in United States v. Michael Joseph Rowe and others, Case No. 3:13-cr-039. On March 12, 2014, he was sentenced

to eighty-four months imprisonment, consecutive to any state sentence then being served (ECF No. 113 in 3:13-cr-039). According to the Return on the Judgment, he was delivered to federal custody the next day (ECF No. 117, PageID 369 in 3:13-cr-039).

Rowe asserts in the Petition that he was arrested by the Darke County, Ohio, Sheriff's Department on charges filed in the Darke County Court of Common Pleas for sexual battery and rape of his daughter (ECF No. 1, PageID 2. He asserts that he has pleaded not guilty in that case and demanded a speedy trial, "but the State will not bring me to trial." *Id.*

Inquiry to the Darke County Court Administrator and separate inspection of the Clerk of Courts records reveals no such pending case. It does show a currently pending appeal in the Ohio Second District Court of Appeals from denial of a motion to vacate an allegedly void sentence, but that is not in a case involving sexual misconduct.

The Magistrate Judge is unable to corroborate any of Rowe's claims from the publicly-available sources. Accordingly, it is hereby ORDERED that Rowe supplement his Petition by filing with this Court not later than March 27, 2020, copies of any relevant paperwork, including without limitation any paperwork from the Darke County Common Pleas Court or the Darke County Sheriff which evidences a detainer.

March 13, 2020.

s/ Michael R. Merz
United States Magistrate Judge